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7 **UNITED STATES DISTRICT COURT**
8 **EASTERN DISTRICT OF WASHINGTON**
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10 **MATTHEW G. SILVA,**
11 Plaintiff,
12 v.
13 **WASHINGTON STATE**
14 **DEPARTMENT OF**
15 **CORRECTIONS, et al.,**
16 Defendants.

17 **NO. CV-08-5017-RHW**

18 **ORDER DENYING PLAINTIFF'S**
19 **MOTION TO VACATE**
20 **DISMISSAL ORDER**

21 Before the Court is Plaintiff's Motion to Vacate Dismissal Order (Ct. Rec.
22 62). The motion was heard without oral argument.

23 Plaintiff asks the Court to vacate the order dismissing the above-captioned
24 case, and to order the Department of Corrections to ship Plaintiff's legal property
25 immediately. Plaintiff asserts that he filed a response to the Court's order to show
26 cause. The letter was not filed in the Court record and the Court did not consider
27 the letter in granting Defendants' Motion to Dismiss. Defendants provided the
28 letter that was allegedly sent to the Court. In the letter Plaintiff asks for additional
Order.

In addition, Plaintiff appealed the dismissal of his case to the Ninth Circuit Court of Appeals. On December 10, 2009, the Circuit concluded that the appeal was so insubstantial as to not warrant further review.

Accordingly, IT IS HEREBY ORDERED:

1. Plaintiff's Motion to Vacate Dismissal Order (Ct. Rec. 62) is **DENIED**.

IT IS SO ORDERED. The District Court Executive is directed to enter this Order, forward copies to Plaintiff and counsel, and **close the file**.

DATED this 22nd day of December, 2009.

s/Robert H. Whaley

ROBERT H. WHALEY
United States District Judge

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**ORDER DENYING PLAINTIFF'S MOTION TO VACATE DISMISSAL
ORDER ~2**